



EPA  
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SCOTT W. LINDQUIST, MD, MPH, DIRECTOR  
109 AUSTIN DRIVE  
BREMERTON, WA 98312-1805  
(360) 337-5235

March 5, 2003

RECEIVED

Ching Pi Wang  
Toxics Clean-up Program  
Ecology-NWRO  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98006-5452

MAR 10 2003

Environmental Cleanup Office

RE: BREMERTON AUTOWRECKING LANDFILL/GORST CREEK LANDFILL

Dear Mr. Wang

Thank you for your letter dated February 14, 2003, responding to our January 22, 2002 letter (see attached), which requested Ecology initiate the corrective action process under the Model Toxics Control Act (MTCA) for the above referenced property. The purpose of this letter is to request clarification, provide comment, and provide additional information about the history of the site, which might assist in clarifying your recommendations.

**General:** The Kitsap County Health District (Health District) is not an agency of Kitsap County, but is a quasi-governmental district formed by the municipalities and Kitsap County. Kitsap County Health District is the jurisdictional health authority and is responsible for enforcing solid waste regulations in Kitsap County. Kitsap County Public Works, Solid Waste Division is responsible for solid waste planning and providing solid waste disposal and recycling services in unincorporated Kitsap County. The subject landfill was privately owned and operated and there is no record that either the City of Bremerton or Kitsap County used this facility as its designated disposal site. Accordingly, neither Kitsap County nor the Health District is a "potentially responsible person" at this site.

**Paragraph 1:**

The Health District's initial inquiry (Steve Alexander letter dated January 22, 2002) was whether Ecology would initiate remedial action under MTCA based on this site's MTCA rank-1. The Health District is not requesting that Ecology conduct a corrective action itself, but to use its authority under MTCA to designate the responsible parties and require corrective action be initiated. The recently degraded site conditions were considered an extenuating circumstance, not specifically evaluated as part of the Health District's SHA. However, when combined with this site's rank-1, provided justification to request Ecology initiate remedial action pursuant to MTCA. Your response letter is silent on Ecology's intent to pursue corrective action under MTCA. It is the Health District's position that the geotechnical issues (slope stability and drainage) are integral to the site and any corrective action taken at the site.

This site was originally permitted under Chapter 173-301 WAC and was effectively abandoned prior to the formal closure that's required under solid waste regulations. The Health District pursued enforcement through a Notice and Order to Correct Violation (NOCV) to the private owner/operator in the early 1990s, ending with a determination of insolvency of the private owner. Kitsap County neither owned, operated nor used the subject landfill. In 2002, the



Health District attempted to initiate enforcement under solid waste regulations for the purpose of slope stabilization, but has been unable to serve proper notice to the existing property owner (who neither owned nor operated the site as a landfill and who claims inability to pay). The Health District is not a PLP at this site and is therefore ineligible to apply for or receive Remedial Action Grant funds to complete slope stabilization.

**Paragraph 3:**

The Washington State Department of Transportation (WSDOT) actually constructed alternative B discussed in the 1997 geotechnical report in 1997-1998 and these structures remain intact. No measures have been taken to improve the long-term stability of the landfill slope, except to monitor the drainage pipe inlet during storms to prevent blockages.

**Paragraph 4-5:**

EPA is only performing a desktop review of existing data for the purpose of determining whether this site is eligible for the NPL list. No additional investigative work is being performed.

The independent SHA conducted by the US Navy, that forms the basis of the Health District's SHA at BAWL, was performed under the guidance and supervision of Mr. Peter Brooks with the Toxics Program federal facilities group. Mr. Brooks approved both the scope of work and the final report for the independent site hazard assessment conducted by the Navy. The Health District agrees there is uncertainty as to the potential impacts of any contaminant migration from the landfill into the groundwater system in the vicinity of BAWL. However, it is the Remedial Investigation (RI) phase of the MTCA process that is intended to characterize the nature and extent of contamination at this site, not the SHA. Furthermore, the ranking process makes no distinction on the direction of the groundwater well from the potential contamination source for the purposes of ranking this site under MTCA.

Attached for your review is a GIS map developed by the Health District using Kitsap County Public Utilities District and Kitsap County GIS data. The orange triangle shape in the lower center of the map is BAWL. The long, narrow isopleths traveling up the page from southwest to northeast are representative of the 1-year and 5-year travel time for potential contaminants to reach the City of Bremerton production wells. This map indicates the regional groundwater flow direction is mostly in a northerly direction.

**Paragraph 6:**

The Health District is neither authorized nor responsible for conducting a groundwater investigation at BAWL under solid waste regulations. The Health District did conduct a SHA in accordance with Ecology guidance sufficient for ranking this site under MTCA. Ecology accepted this ranking and the site was ranked-1. Please clarify when or if Ecology will initiate the corrective action process in accordance with MTCA at this site.

**Paragraph 7:**

The Health District pursued enforcement of the landfill owner/operator under solid waste regulations back in the early 1990s. The result of this legal action was unsuccessful because the owner was insolvent. This landfill was not subject to financial assurance requirements that would enable the Health District to conduct a third party closure.

**Paragraph 8:**

The Health District is of the opinion that the ranking of this site was conducted in accordance with Ecology guidance and the site rank-1 accurately reflects confirmed contamination present at the site. The geotechnical issues only serve to heighten the immediacy of Health District concerns about actual and potential releases of hazardous constituents from this landfill into the environment.

In summary, the Health District offers the following comments on the February 14, 2003 letter:

- Please clarify your references to Kitsap County and Kitsap County Health District. Do you always mean the Health District?
- Please clarify if or when Ecology will initiate the corrective action process under MTCA for this site.
- The geotechnical issues were not evaluated as part of the SHA conducted at this site, but are integral to any corrective action to be taken at this site. The contamination potential at this site is greatly exacerbated by the ongoing geotechnical and drainage issues.
- Ambiguous groundwater flow is not relevant to ranking this site under MTCA or to whether Ecology takes action to initiate the remedial investigation/feasibility study as part of the corrective action process under MTCA.
- The Health District pursued closure of this facility under solid waste regulations ending with an insolvent owner and this facility had no financial assurance to allow the Health District to perform any 3<sup>rd</sup> party closure.
- Neither Kitsap County nor the Health District is a "responsible party" under MTCA and is neither authorized nor responsible for conducting additional site characterization studies.

The Health District would be more than willing to meet with you to discuss these comments and provide any further clarification of the site history that is useful to Ecology. Please contact me at 360.337.5672. to schedule a meeting or if you have any questions or comments. Thank you for your consideration of this matter.

Sincerely,



Jan Brower, R.S.  
Solid and Hazardous Waste Program  
Kitsap County Health District

Attachments KCHD request dated January 22, 2002  
GIS map of site vicinity  
Interim Actions Feasibility Report, Foster Wheeler for USN  
Gorst Creek Hydrologic Modeling, URS for USN

Cc: Scott Daniels, KCHD  
Jerry Deeter, KCHD  
Steve Alexander, NWRO-TCP  
Michael Spencer, TCP  
Joanne Labaw, EPA  
Jlb/wwwqbdc/shw/jan/shw/BAWL/ecologyltrresponse03-03.doc